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**KOPPEL, PATRICK & HEYBL  
555 ST. CHARLES DRIVE, SUITE 107  
THOUSAND OAKS CA 91360**

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**OFFICE OF PETITIONS**

In re Application of :  
**MALCHAR, Richard** :  
Application No. 10/658,615 :  
Filed: September 9, 2003 :  
Attorney Docket No. 036366-0101 :

**DECISION ON PETITION**

This is a decision on the petition under 37 CFR 1.137(b), filed September 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 9, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 10, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$750; and (3) an adequate statement of unintentional delay.

An extension of the under 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1660, 1631 (Comm'r Pats. 1988). Since the \$510 extension of time fee submitted with the petition on September 28, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

The application file is being referred to Technology Center Art Unit 3764 for consideration of the amendment filed September 28, 2006.

*Sherry D. Brinkley*  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions